Traverse ACCOUNTANTS

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CLIENT INSIGHTS

IN THIS ISSUE

$20k Small Business Energy Incentive

In a pre-Budget announcement, the Government has committed to a Small Business Energy Incentive Scheme that offers a bonus tax deduction of up to $20,000.

The Small Business Energy Incentive encourages small and medium businesses with an aggregated turnover of less than $50 million to invest in spending that supports "electrification" and more efficient use of energy.

Up to $100,000 of total expenditure will be eligible for the incentive, with the maximum bonus tax deduction of $20,000 per business. Eligible assets or upgrades will need to be first used or installed ready for use between 1 July 2023 and 30 June 2024 to qualify for the bonus deduction.

If your business is contemplating upgrading to improve energy efficiency, it's worth waiting to see the detail of the proposal. We'll bring you more details of the scheme and how your business might benefit as soon as they are released.

Look out for our 2023-24 Budget update with the details important to you, your business, and your superannuation.

'OnlyFans' Tax Risk Warning

The explosion of OnlyFans, YouTubers, TikTokers and others all offer an opportunity for 'content creators' to profit from the audiences they generate. But now the Tax Office has given notice to the booming industry.

Back in October 2022, OnlyFans CEO Ami Gan announced that the platform had reached a milestone - paying out $10 billion to content creators since its launch in 2016. While known for its adult content, the OnlyFans CEO intends to broaden the platform's scope and provide a means for other content creators – chefs, personal trainers, etc – to utilise its subscription and reward model to generate income. While there are plenty of stories of content creators generating large incomes from the platform like Perth creator Lucy Banks who told Channel 7 she earnt $60,000 in one month, the average income per month is reportedly around USD $150-$180. Creators might also receive 'gifts' in various forms from their subscribers.

OnlyFans is not the only platform generating revenue for Australians; there are plenty of other stories. Google's AdSense calculator estimates that for finance channels with 50,000 monthly views, estimated income is $15,012 ($9,390 for beauty & fitness channels). The message is, there are a lot of content creators generating benefits in a wide variety of forms and the Tax Office wants to ensure everyone is crystal clear about their expectations.

How content creators are taxed

A new update released by the Australian Taxation Office (ATO) in April outlines the regulator's expectations for how content creators will be assessed for tax purposes:

Income tax on money, gifts and goods

If you make an income as a content creator, then it's likely it will be assessed for tax purposes unless what you are doing is a genuine hobby with no expectation of generating a profit (see When is a side hustle a business?). For subscriber-based sites like OnlyFans, there is normally no question about the profit-making expectation.

The ATO's guide also makes it clear that assessable income covers not only money but appearance fees, goods you receive, cryptocurrency, or gifts from fans. And, this is where the problem lies for most content creators. Income in the form of money is easy to track and report. Non-monetary income in the form of goods is not so easy. Let's say a company sends you a handbag with a retail value of $800. The bag is yours to keep. The Tax Office expects you to declare the market value of the bag as income and pay tax on that income. If you receive multiple items throughout the year, or larger inducements like a destination holiday, then this might create a cashflow problem when you need to pay real money to the Tax Office for a 'free' product.

The ATO's blanket statement that all 'gifts' and products should be reported as assessable income fails to recognise that it is not always quite that simple in practice. If you create content as a hobby and not as a profit-making venture for example, and a company sends you an unsolicited gift, the position is a little less clear. It really comes down to the specific scenario.

The timing of when you receive income is also important for content creators. The tax rules consider that you have earned the income "as soon as it is applied or dealt with in any way on your behalf or as you direct". If you are an OnlyFans content creator for example, this is when your OnlyFans account is credited, not when you direct the money to be paid to your personal or business account. So, squirrelling it away from the ATO in your platform account won't protect you from paying tax on it. And, from 1 July 2023, a new reporting regime will require electronic distribution platforms to report their transactions to the ATO. The regime starts with ride sharing and short-term accommodation platforms, then extends to all other platforms, including OnlyFans, from 1 July 2024.

Do I need to register for GST?

Generally, once you earn or expect to earn $75,000 or more per annum, you will need to register for GST. The exception to the $75,000 threshold is Uber and other ride-sourcing drivers who must have an ABN and be registered for GST regardless of how much they earn.

However, even if a content creator is required to register for GST, this doesn't necessarily mean that all of the money and goods they receive will trigger a GST liability. For example, the GST rules contain some special provisions which sometimes enable supplies made to foreign resident customers to be GST-free (although they still normally need to be taken into account in determining whether the supplier needs to register for GST).

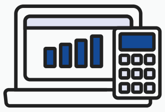
Even if GST-free income is received from foreign resident customers, it will normally still be possible to claim back GST credits for the expenses incurred in connection with these activities.

What deductions can I claim?

The upside of being a profit-making venture is that if you spend money to generate income, you can claim a deduction for certain expenses that directly relate to that income. Items such as video production equipment, microphones, online stores etc., might be deductible although in some cases the deductions will be spread over a number of income years. However, you can't normally claim items such as cosmetic surgery, gym memberships, 'every day' clothes, or the cost of your hairdresser 'because you need to look good'. The Tax Office does not consider that these are directly related to how you earn your income and that in many cases, these are still primarily private expenses (see the ATO's occupation specific guides for what you can claim).

When is a side hustle a business?

The distinction between something you do on the side and carrying on a business can be a fine line. There is no one test for what determines whether you are carrying on a business versus a hobby but factors such as the regularity of your transactions, whether or not you are promoting yourself as a business (developing a brand name etc.), if you engage in marketing activities, whether you intend to develop a business and make a profit (or have the capacity to generate a profit over time), the size, scale and permanency of your activities, and whether you operate in a business-like manner, all go toward determining whether what you are doing is a business or merely a hobby.
If your activities are just a hobby then the income is not assessable, and the expenses are not deductible. If you are carrying on a business, then you need to declare the income earned but you also get to claim deductions for the cost of the business activities (although this still needs to be analysed to see whether amounts can be deducted upfront or over a period of time).



Contact Traverse Accountants for advice on registering for GST.

ATO Rental Property Blitz

The Australian Taxation Office (ATO) has launched a full-on assault on rental property owners who incorrectly report income and expenses.

The ATO's assessment, based on previous data matching programs, is that there is a tax gap of around $1 billion from incorrect reporting of rental property income and expenses. And, they would like that back now please.

As a result, banks and other financial institutions will be required to hand the ATO residential investment loan data on an estimated 1.7 million rental property owners for the period from 2021-22 through to 2025-26.

The data collected will include:

- Identification details (names, addresses, phone numbers, dates of birth, etc.)
- Account details (account numbers, BSB's, balances, commencement and end dates, etc.)
- Transaction details (transaction date, transaction amount etc.)
- Property details (addresses, etc.)

In addition to identifying whether landlords are declaring their residential investment property income at all, the data matching program is looking specifically at how rental property loan interest and borrowing expense deductions have been reported in the rental property schedules, and whether net capital gains have been declared for property used to generate income.

Banks are not the only source of data. In a complimentary program, the ATO is targeting rental property management software. Over the last decade, much of the financial management of residential rental property has moved online, facilitated by various platform providers. The ATO will require these rental property software providers to provide details of property owners including their bank details, income, expenses and the amount of those expenses, and details of their associated rental properties and agents. Data collection of the estimated 1.6 million individuals in this data program will cover the period from 2018-19 to 2022-23.

With that, let's recap on the common problem areas:

Claiming interest and redrawing on the loan

The interest component of your investment property loan is generally deductible. However, if you redraw on your invest loan for personal purposes, interest on this portion of the loan will not be deductible. This means that interest expenses will need to be apportioned into deductible and non-deductible parts and repayments will often need to be apportioned too. If the redrawn funds are used to produce investment income, then the interest on this portion of the loan should be deductible.

Borrowing Costs

You can claim a deduction for borrowing costs (typically over five years) such as application fees, mortgage registration and filing, mortgage broker fees, stamp duty on mortgage, title search fee, valuation fee, mortgage insurance and legals on the loan. Life insurance to pay the loan on death is not deductible even if taking out the insurance was a requirement to get finance. If the loan is repaid early or refinanced, the whole amount including mortgage discharge expenses and penalty interest can often be deductible.

Repairs or maintenance

Deductions claimed for repairs and maintenance is an area that the Tax Office always looks closely at so it's important to understand the rules. An area of major confusion is the difference between repairs and maintenance, and capital works. While repairs and maintenance can be claimed immediately, the deduction for capital works is generally spread over a number of years. Repairs must relate directly to the wear and tear resulting from the property being rented out. This generally involves a replacement or renewal of a worn out or broken part – for example, replacing damaged palings of a fence or fixing a broken toilet. The following expenses will not qualify as deductible repairs, but are capital:

- Replacement of an entire asset (for example, a complete fence, a new hot water system, oven, replacing a shower curtain with a glass wall, etc.)
- Improvements and extensions.

Also remember that any repairs and maintenance undertaken to fix problems that existed at the time the property was purchased are not deductible.

QUOTE OF THE MONTH

"Don't worry about failure; you only have to be right once."

DREW HOUSTON,
CO-FOUNDER AND CEO, DROPBOX

Access to home guarantee scheme expanded to friends and siblings

From 1 July 2023, access to the Government's Home Guarantee Scheme will be expanded to joint applications from "friends, siblings, and other family members" and to those who have not owned a home for at least 10 years.

The eligibility criteria for access to the First Home Guarantee Scheme and Regional First Home Buyers Scheme will be expanded. From 1 July 2023, the schemes will no longer be limited to individuals and couples who are married or in de facto relationships, but will also include eligible friends, siblings, and other family members for joint applications. In addition, the requirement for the applicants to be Australian citizens at the time they enter the loan has been extended to include permanent residents.
The schemes guarantee part of a first home owner's home loan enabling them to purchase a home with as little as 5% deposit without paying Lenders Mortgage Insurance. Guarantees are capped at 15% of the value of the property. Thirty five thousand places are available for the First Home Guarantee Scheme each financial year. From 1 October 2022 there will be ten thousand places available each financial year until 30 June 2025 for the Regional First Home Buyers Scheme.
Eligibility to the Family Home Guarantee will also be extended. From 1 July 2025, the scheme will no longer be restricted to single parents with at least one dependant natural or adopted child, but will also be available to borrowers who are single legal guardians of dependent children such as aunts, uncles and grandparents.
The Family Home Guarantee guarantees the home loan of an eligible single parent with at least one dependent child enabling them to purchase a home with as little as 2% deposit without paying Lenders Mortgage Insurance. The guarantee is capped at 15% of the value of the property. Five thousand places are available to the scheme each year to 30 June 2025.

QUESTION OF THE MONTH

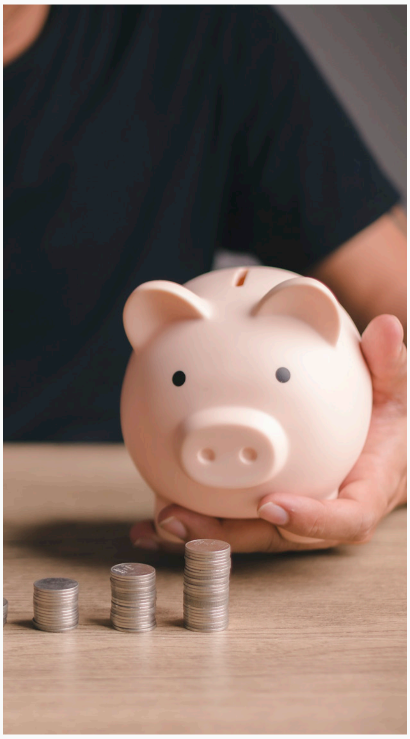
Company loan to pay down the mortgage

A friend's accountant suggested that they could reduce interest on non-deductible debt by using company cash to offset their personal mortgage, then transferring the cash back by 30 June. Is this an acceptable strategy?

This might initially sound like a brilliant strategy but what is really happening is that you are using company funds to derive a personal benefit. Doing this once might not attract attention, but doing this more than once might trigger a deemed unfranked dividend under Division 7A. Section 109R is designed for scenarios like this. If this occurs, the repayment you made will be ignored, meaning that a deemed dividend could be triggered in relation to the funds initially borrowed from the company unless a complying loan agreement is put in place, in which case minimum loan repayments would need to be made to prevent a deemed dividend from arising. For example, let's assume you are a shareholder of the company (or an associate of a shareholder) and you borrow money from the company on 1 July 2022. This loan would generally fall within the scope of Division 7A, but a deemed dividend can be avoided if the loan is fully repaid by the earlier of the due date and actual lodgement date of the company's 2023 tax return.

However, if you repay the loan but it appears that you intend to borrow a similar or larger amount from the company when making the repayment then the repayment can be ignored. The main exception to this is where the repayment is made in a way that is taxable to the individual (e.g., dividends or directors' fees are set-off against the loan balance).

One of the most common situations where section 109R could apply is where funds are taken from the company bank account and placed into a director's home loan offset account. Even if the funds are transferred back to the company before the end of the year, there is a significant risk of section 109R applying if the pattern repeats. That is, the money will be treated as a dividend and taxed as assessable income.



Right to super to be enshrined in National Employment Standards

The Government has announced that it will enshrine a right to superannuation payments in the National Employment Standards (NES).

Currently, workers not covered by a modern award or an enterprise agreement containing a term requiring an employer to make superannuation contributions have to rely on the ATO to recover their lost superannuation entitlements.

By bringing the right to superannuation into the NES, workers will have the right to directly pursue superannuation owed to them. Employers may also face civil penalties if they do not comply with the entitlement.

Penalties of up to $82,500 per breach apply to companies that are found to have contravened the NES.

The ATO's most recent estimate of unpaid superannuation indicates that workers lost $3.4 billion in unpaid super in 2019-20.